

EXHIBIT NO.

1

17

6-14-03

Docket Item #26

SPECIAL USE PERMIT #2003-0012

Planning Commission Meeting

June 3, 2003

ISSUE: Consideration of a request for a change of ownership of an existing gasoline station/convenience store/restaurant.

APPLICANT: Obayedul Hoque

LOCATION: 2922 Duke Street
Skyhill Shell Station

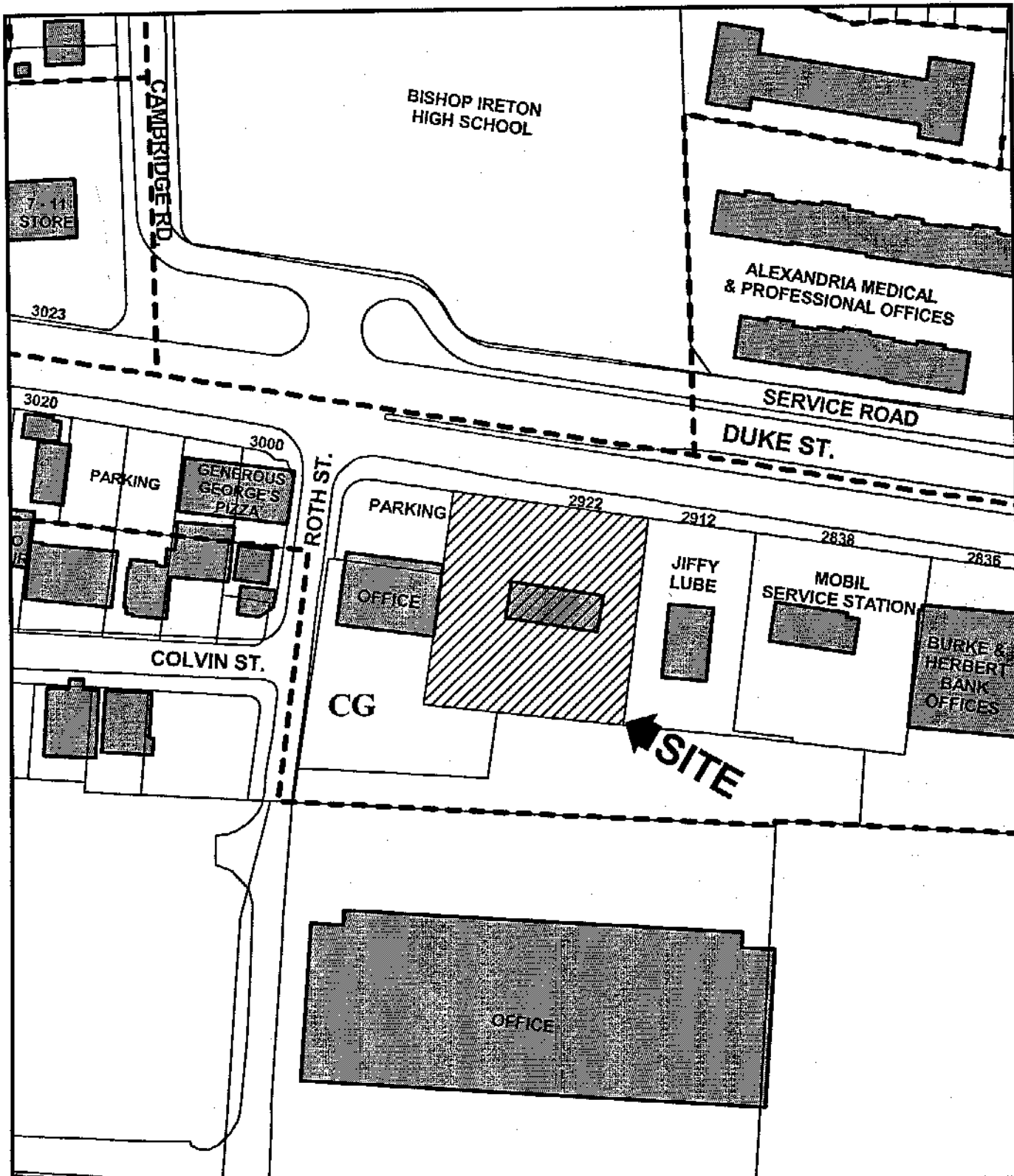
ZONE: CG/Commercial General

PLANNING COMMISSION ACTION, JUNE 3, 2003: On a motion by Mr. Gaines, seconded by Ms. Fossum, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis.

Speakers:

The applicant spoke and agreed to the staff recommendations, including the limitation on alcohol sales.



SUP #2003-0012

06/03/03



STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP 1827)
2. Condition deleted. (SUP 97-0189)
3. **CONDITION AMENDED BY STAFF:** No alcohol service shall be permitted; no off-premise alcohol sales are permitted. ~~Beer or wine coolers may be sold only in four-packs, six-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.~~ (City Council) (SUP 97-0189) (Police)
4. Condition deleted. (SUP 97-0189)
5. Seating in the restaurant may be provided for no more than 12 patrons. (P&Z) (SUP 97-0189)
6. Outside dining facilities shall not be permitted. (P&Z)(SUP 97-0189)
7. No live entertainment shall be provided at the restaurant. (P&Z) (SUP 97-0189)
8. The hours of operation of the restaurant shall be limited to 7:00 a.m. to 11:00 p.m. daily. (P&Z)(SUP 97-0189)
9. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)(SUP 97-0189)
10. **CONDITION DELETED BY STAFF:** The applicant shall ~~restripe the western parking area to provide a total of 10 parking spaces. The applicant shall relocate the existing handicap parking space to the eastern side of the property, adjacent to the existing building to the satisfaction of the Director of Code Enforcement. The applicant shall restripe the parking area adjacent to the building to the west to provide one standard size parking space. This restriping shall occur within six months of Council approval and shall result in the provision of a minimum of 12 parking spaces.~~ (P&Z) (SUP#99-0118)

11. Condition deleted. (SUP 99-0118)
12. Alcoholic beverage service is not permitted in the Subway restaurant. (P&Z) (SUP 97-0189)
13. No food, beverages, or other material shall be stored outside. (P&Z) (SUP 97-0189)
14. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of these containers. (P&Z) (SUP 97-0189)
15. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z) (SUP 97-0189)
16. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP 97-0189)
17. **CONDITION AMENDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (P&Z) (SUP 97-0189)
18. **CONDITION AMENDED BY STAFF:** The applicant ~~is to~~ shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a regarding a security survey for the business and a robbery awareness program for all employees. ~~(Police)~~ (SUP 97-0189) (Police)
19. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (SUP 99-0118)

20. **CONDITION DELETED BY STAFF:** ~~The storage trailer shall be removed 30 days from the City Council meeting. (P&Z) (SUP#99-0118)~~
21. Condition deleted. (SUP 99-0118 - City Council)
22. **CONDITION AMENDED BY STAFF:** ~~The applicant shall meet with Planning staff in order to establish a maintenance schedule for landscaping and~~ The applicant shall maintain landscaping in perpetuity to the satisfaction of the Director of Planning and Zoning. (P&Z) (SUP-98-0051)
23. No loading or unloading activities shall occur on the public rights-of-way. (P&Z) (SUP#99-0118)
24. **CONDITION DELETED BY STAFF:** ~~The applicant shall remove or relocate the concrete planter blocking handicapped access to the building. (T&ES) (SUP#99-0118)~~
25. The applicant shall clean out the catch basin located on the west side of the parking lot and repair the drainage flume connecting it to the Roth Street gutter line. (T&ES) (SUP#99-0118)
26. **CONDITION AMENDED BY STAFF:** All waste products including, but not limited to, organic compounds (solvents), motor oil, ~~s~~ compressor lubricant, and anti-freeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and shall not be discharged into the sanitary or storm sewers, or be discharged onto the ground. (T&ES) (SUP#99-0118)
27. The applicant shall comply with the City of Alexandria Best Management Practices manual for automotive related industries. Contact T&ES engineering division on (703) 838-4327 to obtain a copy of the manual. (T&ES) (SUP#99-0118)
28. A parking reduction is granted for a total of 17 parking spaces. (P&Z) (SUP#99-0118)
29. **CONDITION ADDED BY STAFF:** The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)

30. **CONDITION ADDED BY STAFF:** The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality at 703/519-3400, extension 166. (T&ES)

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

DISCUSSION:

1. The applicant, Obayedul Hoque, requests special use permit approval to change the ownership of an existing gas station, convenience store, and restaurant located at 2922 Duke Street.
2. The subject property is two lots of record with a combined 240 feet of frontage on Duke Street, 130 feet of frontage on Roth Street, and a total lot area of 38,624 square feet. The site is developed with a one story commercial building that consists of a gasoline service, a convenience store and a Subway restaurant. Surface parking is located adjacent to the building. Vehicular access to the property is from Duke Street..
3. An automobile service station has been in operation on the site since 1970 (SUP #791). In September 1988, Council approved a request to replace the repair garage with a convenience store.(SUP #1827-A). More recently, in 1998, Council approved the addition of a Subway restaurant to the business. (SUP #97-0158) There have been issues with the service station in the past, including difficulty obtaining compliance with the requirement to remove a trailer from the site; however, there have been no problems or complaints with the station in recent years.
4. This application is for a change of ownership of the gasoline station, convenience store, and restaurant. It would ordinarily be handled administratively in that staff inspected the property and found no violations to the special use permit; there is no history of complaints at the site; staff advertised the request in the local newspapers and sent letters to area Civic Associations but received no comments from residents. However, the Police Department recommend that a condition be changed, and that step requires action by city council. Section 11-503 (F) (1) (c), states that any new or changed SUP conditions, other than standard conditions, must be considered by City Council. Condition #3 of the SUP permits limited alcohol sales at the establishment.
5. Specifically, the Police recommend that the convenience store not be permitted to sell alcohol. The Police oppose the sale of any kind of alcohol at any gas stations, finding that the sale of alcohol is inappropriate at a gasoline facility because it could lead to intoxicated drivers.
6. Zoning: The subject property is located in the CG/Commercial General zone. Section 4-403 of the zoning ordinance permits a service station, restaurant and convenience store in the CG zone only with a special use permit.
7. Master Plan: The proposed use is consistent with the Taylor Run/Duke Street Small Area Plan chapter of the Master Plan which designates the property for general commercial use.

STAFF ANALYSIS:

Staff has no objection to the proposed change of ownership located at 2922 Duke Street. Although there have been complaints in the past, staff is not aware of any complaints in the past several years. Staff did not observe any violations at the site, and observed that the property was well maintained, including the landscaping. Staff recommends a one year review condition to ensure compliance with the SUP is maintained. Staff has also updated a number of the conditions, deleted outdated conditions, and added standard conditions. The conditions proposed by staff include the prohibition recommended by the Police to prohibit alcohol sales at this gas station.

The history of alcohol sales at this particular site, as reflected in its SUP condition language over time, demonstrates the City's approach to the issue citywide. In 1991, when City Council approved the addition of a convenience store at this location, it allowed the sale of alcohol from the convenience store, but added the following condition: "That no beer be sold in other than six packs and that no wine in quantities below 0.5 liters be sold." This was the first SUP case with a condition limiting alcohol sales in the City, and similar language was used in other cases thereafter.

In 1998, when the applicant's request to add a Subway restaurant was under consideration, Council asked staff for background on the history, language, and effect of including a condition that limits alcohol sales. The attached March 11, 1998, memorandum from Chief Samarra and Director Lynn present that background. In addition, Planning staff worked with Police to update the condition regarding alcohol sales, and Council accepted the proposed new language, which stated:

"Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of 40 fluid ounces or more. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold".

On March 14, 1998, when Council approved the request to add the Subway restaurant at the gas station, the SUP included the updated language limiting alcohol sales. The same language is a standard condition in all SUP cases which allow off premise sales of beer and wine.

The convenience store at issue here has been selling some wine and beer off premise for many years, although it does not appear to constitute a large portion of its convenience sales. There is a 7-11 store across Duke Street which likely dominates the market in the area, although concerns about drinking and driving may also apply at those convenience stores that cater to drivers. Staff has found no other stations in the City where alcohol is sold. Gas stations with convenience stores located at 2320 Jefferson Davis Highway (Exxon), 4550 Kenmore (Exxon), and 3500 King (Mobil), are not permitted to sell alcohol.

With these conditions, staff recommends approval of the special use permit.

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- F-1 The applicant has complied with previous T&ES recommendations for relocation of a planter and repair of an existing stormwater flume (SUP#99-0118)
- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-2 **(NEW CONDITION)** The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services.
- R-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-4 All waste products including, but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers, or be discharged onto the ground.
- R-5 The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166.

Code Enforcement:

- C-1 A new fire prevention permit will be required due to the change in ownership.

Health Department:

- F-1 An Alexandria Health Department Permit is required for all regulated facilities.
- 1) Permits are non-transferable.
 - 2) This facility must meet current Alexandria City Code requirements for food establishments. Contact Environmental Health at 703-838-4400 Ext. 255 to arrange for a "change of ownership" inspection.
 - 3) If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
 - 4) Permits must be obtained prior to operation.
 - 5) The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
 - 6) Certified Food Managers must be on duty during all hours of operation.
 - 7) Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
 - 8) This facility is currently operating as Skyhill Shell under permit #16F-509-1, issued to Anjali & Anisha, Inc.
 - 9) Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- R-3 The Alexandria Police Department does not concur with the sale of any kind of alcohol at gas stations.

APPLICATION for SPECIAL USE PERMIT # 2003-0012

☒ Change of Ownership or ☐ Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 2922 Duke St Alexandria VA 22314

TAX MAP REFERENCE: 61.04 02 15 ZONE: CG

APPLICANT Name: OBAYEDUL HOQUE

Address: 4439 BURNT Pine Ct

PROPERTY OWNER Name: Shell Oil Co/ motiva LLC

Address: 2922 Duke Street Alex VA 22314

SITE USE: RETAIL GASOLINE STATION & CONVENIENCE STORE

AS IS CURRENT - SUP.

☒ THE UNDERSIGNED hereby applies for a Special Use Permit for Change in Ownership, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.

☐ THE UNDERSIGNED hereby applies for a Special Use Permit for Minor Amendment, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

OBAYEDUL HOQUE

Print Name of Applicant or Agent

Obayedul Hoque

Signature
703 626 1866

4439 BURNT Pine Ct

Mailing/Street Address

703-941-5547 703-941-5542

Telephone # Fax #

ALEXANDRIA VA 22312

City and State

Zip Code

01/30/03

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____ Date & Fee Paid: _____ \$ _____
Legal Advertisement: _____

ADMINISTRATIVE ACTION: _____

Date

Director, Planning & Zoning

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 99-0118

Date approved: 11 / 13 / 1999
month day year

Name of applicant on most recent special use permit _____

Use _____

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

AS PER THE CURRENT
SUP WITH THE ZONING.

Copy Attached!

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, any noise emitted by the use, etc. (Attach additional sheets if necessary)

NIL

4. Is the use currently open for business? ☒ Yes ☐ No

If the use is closed, provide the date closed. _____ month _____ day _____ year

5. Describe any proposed changes to the conditions of the special use permit:

Nil

6. Are the hours of operation proposed to change? ☐ Yes ☒ No
If yes, list the current hours and proposed hours:

Current Hours:

Proposed Hours:

24 Hrs.

7. Will the number of employees remain the same? ☒ Yes ☐ No
If no, list the current number of employees and the proposed number.

Current Number of Employees:

Proposed Number of Employees:

5-6

5

8. Will there be any renovations or new equipment for the business? ☐ Yes ☒ No
If yes, describe the type of renovations and/or list any new equipment proposed.

9. Are you proposing any change in the sales or service of alcoholic beverages? ☐ Yes ☒ No
If yes, describe proposed changes:

10. Is off-street parking provided for your employees? Yes ☒ No ☐
If yes, how many spaces, and where are they located?

11/11

11. Is off-street parking provided for your customers? Yes ☒ No ☐
If yes, how many spaces, and where are they located?

As at present there is - 17

12. Is there a proposed increase in the number of seats or patrons served? Yes ☒ No ☐
If yes, describe the current number of seats or patrons served and the proposed number of seats or patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

Proposed:

12

12

13. Are physical changes to the structure or interior space requested? Yes ☒ No ☐
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? Yes ☒ No ☐
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

15. The applicant is the (check one) Property owner ☒ Lessee ☐
other, please describe:

16. The applicant is the (check one) Current business owner ☒ Prospective business owner ☐
other, please describe:

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

Shell Oil Co (retiree) is the
owner of the property.

*City of Alexandria, Virginia*12
3-14-98

MEMORANDUM

DATE: MARCH 11, 1998

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: VOLA LAWSON, CITY MANAGER *Vola Lawson*

FROM: SHELDON LYNN, DIRECTOR *Sheldon Lynn*
PLANNING AND ZONING

SUBJECT: RESTRICTIONS ON SALES OF SINGLE BEERS
SKYHILL SHELL STATION
SPECIAL USE PERMIT #97-0189

Council has asked staff, in the context of the pending special use permit for the Skyhill Shell Station at 2922 Duke Street, to provide a narrative regarding the history, language and effect of including a condition in special use permits which restricts the sale of single beers and fortified wines.

History

In 1991, as a result of several years of police activity designed to reduce street-level drug dealing in certain neighborhoods of the City, Council was made aware that a significant number of the arrests made as part of that program were related to the use of alcohol. The experience of the Police Department was that the easy availability of alcohol, particularly from stores in problem neighborhoods that sell chilled single beers and fortified wine¹ contributes in a significant manner to the conduct that led to the alcohol-related arrests in neighborhoods experiencing nuisance activity. The availability of alcohol was also found to contribute to the offensive alcohol-related conduct that these neighborhoods experienced over the years, such as public drunkenness, public urination, and the verbal and physical harassment that residents were forced to endure from intoxicated individuals.

At the request of then Councilman Donley, the City Attorney provided an opinion on several alternative strategies for dealing with the issue and told Council that, while no provision of federal, state or local law prohibits the sale of fortified wine or single beers, the City could impose such a sales restriction on special use permit holders, even though they held a license to sell from the Virginia Alcoholic Beverage Control Board (ABC).

¹"Fortified wine" consists of wine whose alcohol content has been significantly increased by the addition of wine spirits. Specifically, any wine whose alcohol content exceeds 14% by volume is fortified.

As part of that discussion, Council began imposing a condition in the special use permits of convenience stores and some carry-out restaurants restricting sales of wine and beer. In fact, the first case in which the language was applied was the Skyhill Shell station which, after being initially approved for a convenience store in 1988, returned to Council in April 1991 seeking permission to sell alcohol. When the new permit was approved, it included the following restriction:

No beer may be sold in other than six packs and no wine in quantities below 0.5 liters² may be sold.

Since 1991, Council has consistently imposed a similar condition on all special use permits for businesses that include an off-premise ABC license.

Language

Over the years, the particular language of the condition has varied some as staff attempted to define the size of the minimum allowable beer container, add a minimum wine container size, and define fortified wine. For example, soon after the Shell station condition was imposed in early 1991, Council added words to restrict fortified wines. The standard condition language then became:

No beer may be sold in other than six packs and no fortified wine or wine in quantities below 0.5 liters be sold.

Then, late in 1991, with the special use permit for Gibson's Corner, at 201 East Hume Avenue, the Planning Commission and City Council both attempted to improve the wording. The Commission proposed the following language:

That no beer be sold in other than six-packs or in greater quantities, and that no fortified wines or wines in quantities under 0.5 liters be sold.

City Council amended the language in the same case to be:

That no single containers of beer be sold regardless of type or size of container and that no fortified wines (any wines with alcohol content of 14 percent or greater) be sold.

Planning staff has typically deferred to the Police Department, representatives of which deal directly with the ABC and make recommendations to that state agency on ABC permits, as to changes in language. The most recent standard formulation has been:

That the sale of single beers be prohibited. A single sale of beer is defined as any container having 40 fluid ounces or less. That no wine in quantities below 0.5 liters and no fortified wine may be sold. Fortified wines are defined as wines having an alcohol content of more than 14% by volume but not more than 21%.

²0.5 liters (750 ml or 25.4 ounces) is the size of a conventional wine bottle.

In the last year or so, the Police Department has, however, added recommendations that the Planning Commission has not included in permits because it found the restrictions too onerous, too difficult to enforce, and unfair in light of sales from supermarkets. Those recommendations include a restriction on the hours when beer and wine may be sold (11:00 a.m. - 9:00 p.m.) and a limit of one "chilled" six pack per beer customer.

At Council's recent suggestion, we have attempted to refine the language even more to eliminate all ambiguity. Chief Samarra and Planning Director Lynn both now recommend the following language:

Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of 40 fluid ounces or more. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

If Council agrees, the above language may be used in the Shell case and will be added to all new convenience store and off-premise sales SUPs. We will also review cases coming back to staff either on one year, or later, reviews or for administrative approvals of changes of ownership. We will require that the language be updated as above, even though it means taking the case to public hearing to change the conditions.

7-Eleven Stores

Convenience stores that are limited by the above language as part of their special use permit conditions repeatedly raise the issue that other retail establishments, even other convenience stores, are permitted to sell wine and beer without restriction. A pointed example is to compare the Shell station restrictions with the fact that there are none applicable to the 7-Eleven store across the street at 3023 Duke Street. That store has an unusual history in that it was required to obtain a special use permit in September 1991 when it sought to extend its hours to become a 24 hour operation. However, when the 7-Eleven chose not to change its hours, Council allowed it to withdraw the special use permit, thus escaping the restriction. Most of the other 7-Eleven stores operate without any limit on beer and wine sales, because they predate the special use permit requirement. To add to the dilemma, non-convenience grocery stores, supermarkets and other retail stores such as CVS also sell wine and beer; since those stores do not require special use permits, no conditions have been imposed.

On the other hand, depending on how the Planning Commission and Council decide to act on the nonconforming use issue, those convenience stores not now subject to a special use permit may be required to obtain one or go out of business after a period of time. If the SUP requirement were added, then at least as to most convenience stores, the restriction against single beer sales would be uniformly applied.

cc: Chief Charles Samarra

Attachments: 1. City Attorney memo 91-257D, July 10, 1991.
2. Lynn memo to Samarra, February 24, 1998.

17
APPLICATION for SPECIAL USE PERMIT # 2003-0012

☒ Change of Ownership or ☐ Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 2922 Duke St Alexandria VA 22314

TAX MAP REFERENCE: 61.04 02 15 ZONE: CG

APPLICANT Name: OBAYEDUL HOQUE

Address: 4439 BURNT Pine Ct

PROPERTY OWNER Name: Shell oil co/ motiva LLC

Address: 2922 Duke Street, Alex, VA. 22314.

SITE USE: RETAIL GASOLINE STATION ? CONVENIENCE STORE

As is CURRENT - SUP

☒ THE UNDERSIGNED hereby applies for a Special Use Permit for Change in Ownership, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.

☐ THE UNDERSIGNED hereby applies for a Special Use Permit for Minor Amendment, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

OBAYEDUL HOQUE
Print Name of Applicant or Agent

4439 BURNT Pine Ct
Mailing/Street Address

ALEXANDRIA VA 22312
City and State Zip Code

Obayedul Hoque
Signature
703 626 1866
703-941-5547 703-941-5542
Telephone # Fax #

01/30/03
Date

===== DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY =====

Application Received: _____ Date & Fee Paid: _____ \$ _____
Legal Advertisement: _____

~~ADMINISTRATIVE ACTION:~~ PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7 TO 0

CITY COUNCIL ACTION : 6/14/03PH--CC approved the
Planning Commission recommendation.

Date

Director, Planning & Zoning